

Dig Safe Notice No. 721

Order entered: 5/24/2011

Background

1. Pursuant to 30 V.S.A. § 7001 et. seq., and Vermont Public Service Board Rule 3.800, the Vermont Department of Public Service ("Department") issued a Notice of Probable Violation of Underground Utility Damage Prevention System ("NOPV") to Trenchless Solutions ("Respondent").
2. Incident Date: November 9, 2009
3. Incident Location: 191 Morgan Parkway, Williston, VT
4. Name and Address of Company that Reported the Incident to the Department: Vermont Gas Systems, Inc., 85 Swift Street, South Burlington, VT 05403
5. Date Incident Reported to Effected Utility: November 9, 2009
6. Date NOPV issued by Department: November 9, 2010 (#1747)
7. Department's Statement of Evidence Supporting the Alleged Violation: "The Department of Public Service investigated this incident and determined the following details. On 10/22/09, Trenchless Solutions Inc. made a notice of excavation activities to install an electric conduit to Dig Safe System Inc. Vermont Gas Systems accurately located and marked its underground facilities in the area of the proposed excavation. The paint marks were clearly visible at the time of excavation. Trenchless Solutions Inc. used a directional drill within 18" of the marks and did not verify the location and depth of the gas line. This directional drilling resulted in the gas service line being damaged and a subsequent loss of service to the homeowner for 2 hours. Trenchless Solutions Inc. notified VGS of the damaged facility. The Department of Public Service issued 0 Notices of Probable Violation (NOPV's) to Trenchless Solutions during the 12 months preceding this incident."

8. Statute, Rule, Regulation or Order Allegedly violated: 30 V.S.A. § 7006b
9. The Department's Recommended Remedial Action(s) (Including Civil Penalties): Civil penalty in the amount of Six Hundred Dollars (\$600.00).
10. The NOPV, along with instructions concerning how to respond to the NOPV, was sent to Trenchless Solutions on November 9, 2010.¹ To date, Trenchless Solutions has not filed a response to the NOPV.

Conclusion and Order

Public Service Board ("Board") Rule 3.807(C) provides:

Within 30 days of receipt of a Notice of Probable Violation, any person who is the subject of an enforcement proceeding pursuant to that Notice shall make a written response to the Department and to the Board, with a copy to the Company that reported the alleged violation.

Accordingly, we conclude that it is appropriate to make a binding disposition of this matter *by default*, pursuant to 3 V.S.A. Section 809(d).

WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

Within thirty days of the date of this Order, Trenchless Solutions shall pay a civil penalty in the amount of Six Hundred Dollars (\$600.00) by submitting to the Public Service Board a check in that amount made payable to the State of Vermont, and sent to the Public Service Board at 112 State Street, Montpelier, VT 05620-2701.

1. Letter of Hans E. Mertens, dated November 9, 2010.

Dated at Montpelier, Vermont, this 24th day of May, 2011.

<u>s/James Volz</u>)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: May 24, 2011

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further Order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and order.